

***United States Court of Appeals  
for the  
District of Columbia Circuit***



**TRANSCRIPT OF  
RECORD**



# TRANSCRIPT OF RECORD.

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## Court of Appeals, District of Columbia

OCTOBER TERM, 1910.

No. 2199.

759

JOHN A. CHALONER, APPELLANT,

*vs.*

THE WASHINGTON POST COMPANY, A CORPORATION.

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APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA

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FILED JULY 29, 1910.

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**In the Court of Appeals of the District of Columbia.**

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No. 2199.

JOHN A. CHALONER, Appellant,  
vs.  
THE WASHINGTON POST Co., &c.

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*a* Supreme Court of the District of Columbia.

Law. No. 52406.

JOHN A. CHALONER, Plaintiff,  
vs.  
THE WASHINGTON POST COMPANY, a Corporation, Defendant.

UNITED STATES OF AMERICA,  
*District of Columbia, ss:*

Be it remembered, That in the Supreme Court of the District of Columbia, at the City of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above-entitled cause, to wit:

1 *Declaration.*

Filed Feb. 26, 1910.

In the Supreme Court of the District of Columbia.

Law. No. 52406.

JOHN A. CHALONER, Plaintiff,  
vs.  
THE WASHINGTON POST COMPANY, a Corporation, Defendant.

The plaintiff, John A. Chaloner, formerly known as John A. Chanler, sues the defendant for that whereas the plaintiff is and was at the time of the committing of the grievances hereinafter complained of a well known member of the Chanler family the members whereof are well and favorably known in the state of New York, the District of Columbia, the states of Virginia, North Carolina, and elsewhere in the United States; and for that the plaintiff was

always reputed among the citizens of the District of Columbia as well as among other citizens of the states hereinbefore mentioned and other states of the United States of America to be upright, honest, just and lawful and law-abiding in his daily living and conduct.

Yet the defendant well knowing the premises but contriving and intending to deprive the plaintiff of his said good name, credit and reputation and to bring him into scandal and disrepute among his friends, neighbors and acquaintances and to hinder and impede him in the assertion of his property and personal rights in certain litigation now pending by him in the city and state of New York

2 wherein was and is involved, as the defendant well knew title to valuable real estate and his right to his personal liberty in the city and state of New York, falsely and maliciously composed and published and caused to be composed and published of and concerning the plaintiff in a certain newspaper of large circulation throughout the United States and especially in the District of Columbia and the states hereinbefore named on Saturday, April 3, 1909, the following false, scandalous, defamatory and malicious libel, to wit:

"John Armstrong Chaloner (Chanler) (meaning the plaintiff) brother of Lewis Stuyvesant Chanler, of New York, and former husband of Amelie Rives, the authoress, now Princess Troubetskoy, is recuperating at Shadeland, the country home of Maj. Thomas L. Emry, near Weldon, N. C., where he had gone to recuperate following a nervous breakdown as a result of the tragedy at his home, Merry Mills, near Cobham, on March 15, when he shot and killed John Gillard, while the latter was abusing his wife, who had taken refuge at Merry Mills, Chaloner's home.

Following the shooting, Chaloner suffered a nervous breakdown, and was ordered by his physician to take a long rest. He decided to visit his old friend, Maj. Emry, who, with Chaloner, was instrumental in founding Roanoke Rapids, a manufacturing town 5 miles from Weldon. Chaloner arrived at Weldon after traveling all night, and was immediately hurried to Shadeland, where he received medical attention and temporary relief."

The said defendant meaning and intending by said false, scandalous and malicious libel to charge the plaintiff with the crime of murder in the killing of one John Gillard when on the contrary the fact was as defendant well knew, that while the plaintiff was engaged in a most laudable effort to prevent the said Gillard from murdering his wife, and although the said plaintiff purposely refrained from

shooting said Gillard as plaintiff was well justified in doing, 3 the said Gillard was in fact killed by accidental explosion of a pistol which the said Gillard was endeavoring to wrest from the grasp of plaintiff in order that the said Gillard might with the said pistol murder his wife, so that in truth and fact as the defendant well knew plaintiff was entitled to the highest credit for his courage and chivalrous conduct in the premises.

By means of the publishing of which said false, scandalous and malicious libel and libelous matter by the defendant the plaintiff was not only hurt and prejudiced in his good name, fame credit and



esteem among the citizens of the District of Columbia, the states of New York, Virginia and North Carolina and elsewhere but has also fallen into great discredit among them and will be greatly hindered and impeded in the assertion by the judicial proceeding aforesaid of his right to his property and to his personal liberty in the state of New York because the tendency of the said libel was and is to create the impression in the minds of great numbers of persons who have read the same that the said plaintiff is mentally irresponsible and has dangerous and homicidal tendencies all of which the defendant knew to be untrue, and for that the publication of the aforesaid libel among good and worthy citizens of the District of Columbia and of the localities hereinbefore mentioned, to whom the innocence of the plaintiff in respect to said offenses and misconduct so as aforesaid mentioned and charged upon and imputed to the plaintiff was unknown, will by reason of the committing of the said

4 several grievances by the defendant cause the plaintiff to be suspected and believed by said good and worthy citizens to have been guilty of the offenses and misconduct so as aforesaid mentioned charged upon and imputed to the plaintiff, whereby the plaintiff has been brought into public shame, infamy and disgrace without the slightest justification or reason as the defendant well knew at the time of the publication of the aforesaid libel whereby the plaintiff has been greatly injured.

Wherefore the plaintiff brings this suit and claims damage in the sum of \$50,000 besides costs.

WM. E. AMBROSE.  
JNO. RIDOUT.

*Demurrer.*

Filed Mar. 22, 1910.

\* \* \* \* \*

The defendant says that plaintiff's declaration is bad in substance.

WILTON J. LAMBERT,  
*Attorney for Defendant.*

NOTE.—Among the points of law to be argued on the foregoing demurrer is the following:

That the article alleged to have been published by the defendant of and concerning the plaintiff as set forth in said declaration is not libelous per se, and that said declaration does not allege sufficiently any special damage by reason of the publication of said article.

WILTON J. LAMBERT,  
*Attorney for Defendant.*

5 Supreme Court of the District of Columbia.

FRIDAY, May 27th, 1910.

Session resumed pursuant to adjournment, Hon. Harry M. Cla-  
baugh, Chief Justice, presiding.

\* \* \* \* \*

Upon consideration of the demurrer filed herein to the declaration,  
it is ordered that said demurrer be, and the same is hereby sustained,  
with leave to plaintiff to file an amended declaration herein as ad-  
vised within twenty days.

MONDAY, June 6th, 1910.

Session resumed pursuant to adjournment, Hon. Harry M. Cla-  
baugh, Chief Justice presiding.

\* \* \* \* \*

Comes now the plaintiff by his attorney Mr. John Ridout, and  
elects to stand upon the pleadings herein; whereupon, it appearing  
that defendant's demurrer filed herein to plaintiff's declaration has  
been sustained by an order of the court herein, it is considered that  
the plaintiff herein take nothing by this action, that the defendant  
go hereof without day, be for nothing held, and recover of plaintiff  
its costs of defense to be taxed by the Clerk, and have execution  
thereof.

6 From the foregoing judgment, the plaintiff by his attorney  
in open court, notes an appeal to the Court of Appeals of the  
District of Columbia; whereupon, the penalty of a bond to operate as  
a supersedeas is hereby fixed in the sum of One Hundred Dollars.

*Memorandum.*

June 23, 1910.—Appeal bond approved & filed.

*Directions to Clerk for Preparation of Transcript of Record.*

Filed Jul- 8, 1910.

\* \* \* \* \*

The clerk will include in the transcript of record on appeal herein  
the following:

Declaration, demurrer, judgment, Appeal, Appeal bond, this desig-  
nation.

WILLIAM E. AMBROSE,  
JOHN RIDOUT,  
*Att'ys for Pl'ff.*



7 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA,  
*District of Columbia, ss:*

I, John R. Young, Clerk of the Supreme Court of the District of Columbia, hereby certify the foregoing pages numbered from 1 to 6, both inclusive, to be a true and correct transcript of the record according to directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 52406 at Law, wherein John A. Chaloner is Plaintiff and The Washington Post Company, a corporation, is Defendant, as the same remains upon the files and of record in said Court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said Court, at the city of Washington, in said District, this 22d day of July, 1910.

[Seal Supreme Court of the District of Columbia.]

JOHN R. YOUNG, *Clerk.*

Endorsed on cover: District of Columbia Supreme Court. No. 2199. John A. Chaloner, appellant, vs. The Washington Post Co., &c. Court of Appeals, District of Columbia. Filed Jul- 29, 1910. Henry W. Hodges, clerk.